

# Neoliberalism, conflict of interest, and the governance of health research in Canada

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See related editorial on pages 26-28. For excerpts from the meeting of the House of Commons Standing Committee on Health see pages 31-39.

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In late 2009, controversy arose over the appointment of Dr. Bernard Prigent, vice-president of medical affairs for Pfizer Canada, to the Governing Council (GC) of the Canadian Institutes of Health Research (CIHR). As of 25 January 2010, 4411 people had signed a petition for the appointment to be rescinded on grounds of conflict of interest. The story attracted considerable national media attention<sup>1</sup> and generated debate between critics and defenders of the appointment.<sup>2-7</sup> The appointment was referred to the Standing Committee on Health of the House of Commons, which convened two hearings to review it.<sup>7</sup> A motion to recommend the withdrawal of the appointment was defeated in a split vote.

Conflict of interest has many definitions applicable in diverse settings but, in essence, a conflict is present when a person is obliged or inclined to pursue interests that compete with one another in fundamental ways. I should not sit on a committee selecting a literary award winner if my best friend is one of the nominees. I cannot simultaneously be a governor of the Toronto Maple Leafs and the Montreal Canadiens. The test is not whether my interest in X *invariably* conflicts with my interest in Y; it is that there is a reasonable likelihood of the interests colliding in non-trivial ways.

Appearance also matters. If certain appointments and proximities raise concerns that science is distorted by commercial interests, or favours some types of inquiry over others, the public and practitioners may cease to pay attention to its findings, be disinclined to volunteer to participate in clinical trials, or resent their tax dollars

flowing to public organizations that fund such research. Short of outright scientific misconduct, nothing has so potentially chilling an effect on the expansion of science and its appropriate application than the perception that the enterprise has been bought.

Public institutions present a special case because their overarching duty is to serve the public interest—a notoriously difficult concept to pin down with precision. Importantly, there are those who argue that there is no distinct public interest: there are only particular interests, and it is the balance and interplay among them that defines the common good. This view is represented by the neoliberal “Chicago School” of economics and others who are deeply suspicious of government, regulation, broad democratic agendas, and interference in the free market. This is a radical contemporary reformulation of the historical view that the public interest is more than the sum of exchanges among individual interests. That view is the foundation of a wide range of political theories that span the ideological spectrum from classical conservatism and liberalism to social democracy and communitarianism. The nuances of these opposing positions cannot be addressed here; suffice it to say that the difference is highly relevant to the Prigent case.

Dr. Prigent is a long-time drug company executive who has worked for Pfizer since 1995. He is among the senior officers of Pfizer who are registered as lobbyists with the Office of the Commissioner of Lobbying of Canada, and CIHR is listed as one of the targets of Pfizer’s lobbying activities ([www.ocl-cal.gc.ca](http://www.ocl-cal.gc.ca)). Pfizer’s primary obligation as a corporation is to make money for its shareholders, and Dr. Prigent’s primary professional obligation is to Pfizer. If the choice is between improving the health of the population and making money, both must choose the latter. For a profit-making corporation, any decline in sales is by definition a failure, even if it is attributable to a product being supplanted, to the consumer’s advantage, by a competitor’s superior product. Any increase in sales is by definition a success, even if the added consumption makes no contribution to health or even has some deleterious effect. Pfizer has an obvious interest in the flow of CIHR funds to science that may lead to drug development, and an obvious interest in diverting CIHR funds away from science that may reveal the comparative ineffectiveness of one of its drugs or challenge the pharmacological therapeutic paradigm. Situationally, Dr. Prigent is bound by the same interests, and the GC appointment places him in a position to argue for the desired steering effect by virtue of GC’s power to create and terminate scientific institutes and mount or eliminate programs.

At the Standing Committee hearings, CIHR president Dr. Alain Beaudet explicitly called for the CIHR and private industry to align their agendas. On this understanding, the interests of pharma *are* the public interest; commercialization and profit in themselves define the successful translation of science into public benefit. The moral arbiter of commercialization is not a set of ethical principles but the health care marketplace. Dr. Beaudet's defence of the appointment has the virtue of clarity: it obliterates any perceived conflict between the mission of his agency and the commercialization imperative.

Yet the public institution he heads is funded by taxpayers who clearly benefit from science that sometimes threatens drug company profits. Hormone replacement therapy for menopausal women and Vioxx were huge commercial successes but by any reasonable account public interest failures.<sup>8,9</sup> These and many other examples make it clear that pharma's interests at times conflict with the public interest as normally understood. That being the inescapable conclusion, the Prigent appointment is defensible only on the neoliberal understanding of conflict of interest—namely that private interests and the public interest essentially coincide, and where the possibility of conflict of interest exists, the remedy is simply to declare rather than avoid it, and rely on individuals to rise above it.

Only the inhabitants of this neoliberal moral universe could fail to see the real and apparent ethical flaws inherent in appointing an active pharma executive to the CIHR GC. Moreover, pharma is not just any commercial entity; it has a long history of documented assaults on scientific integrity and honest marketing.<sup>10</sup> This misconduct has led journal editors to intensify efforts to identify conflict of interest and avoid publishing biased findings. Having witnessed the impact of systematic inattention to both the appearance and reality of conflict of interest, the Obama administration has removed numerous registered lobbyists from public boards.<sup>11</sup> Harvard University has recently instituted strict new policies that limit medical faculty pay for serving on drug company boards and forbid the acceptance of speaking fees from pharma.<sup>12</sup>

Canada is moving in the opposite direction on the premise that the fox, once seated at the henhouse table, will honour its pledge to become a vegetarian. To claim that the Prigent appointment is essential to fulfilling the agency's commercialization mandate is disingenuous. Nothing prevents the CIHR from seeking advice from commercial interests, both pharmaceutical and other. Most universities have technology transfer officers whose mission is the commercialization of academic discoveries. Governments regularly communicate with

registered lobbyists unconflicted by dual loyalties but do not appoint them to the Cabinet. Dr. Prigent is an active Pfizer executive and a registered lobbyist. This alone should disqualify him from appointment to the GC, as it now would in the US.

If the ethics and intellectual justification are flawed, the economics are no better. The appointment has been defended on the grounds that pharma exemplifies commercialization in its best form. Those who promote the alignment of the CIHR and pharmaceutical agendas appear to be bedazzled by half of the financial statements—the assets and revenues—but are blind to the liabilities and expenditures. Yes, pharma invests in research and development, creates scientific and marketing jobs, makes profits, and pays taxes. This is only half the story. The liabilities include a great deal of off-label drug use (recently estimated as 20% of all sales,<sup>13</sup> or over \$4 billion in Canada), avoidable adverse drug reactions, and consumption of expensive new drugs that are no better than the cheaper ones they have replaced. The US Food and Drug Administration estimates that only a fifth all new drugs submitted for approval have the potential to add any therapeutic value.<sup>14</sup> The public subsidizes, as tax-deductible expenses, the very marketing practices that promote highly inefficient consumption. By the government's own calculations, the price of generic drugs in New Zealand is less than a quarter of the price in Canada; drugs still under patent are 20% cheaper.<sup>15</sup>

Commercial interests are indeed served by high prices, expanded use irrespective of therapeutic benefit, longer patents, and a happy head office in (usually) another country. It is equally clear that these commercial successes are public interest failures. Of course there are win-win situations—good drugs at reasonable prices used appropriately—but the potential for conflict is obvious, and actual conflicts are many. The assumption that it is possible to align the scientific agenda with the pharmaceutical agenda without one or both overhauling their mission and values is untenable. The CIHR would do well to heed its own analysis: "Interactions between academia and industry have sometimes raised questions of ethics and integrity, as well as concerns that commercialization opportunities need to be properly evaluated and may not always be for the public good."<sup>16</sup>

On general grounds, then, the Prigent appointment constitutes a clear conflict of interest unless the concept itself is to be abandoned as a serious ethical guide to governance structure and behaviour. The selection of a Pfizer official adds yet another layer of provocation. The government chose to appoint to CIHR's GC the representative of a company that recently paid \$2.3 billion in

criminal fines and penalties for illegally marketing four drugs—merely the latest in a series of malfeasances dating from 2002.<sup>17</sup> I can find no record of Dr. Prigent having opposed or distanced himself from Pfizer's felonies. The Standing Committee majority dismissed the questions posed by NDP health critic Judy Wasylycia-Leis about whether the company's transgressions were relevant to his fitness to serve.

More discouraging than the Prigent appointment in itself is the refusal of either government or the CIHR to acknowledge that the appointment raises even the possibility of conflict of interest. It is one thing to make and defend a decision; it is quite another to refuse to recognize and substantively engage with the very real ethical issues at its core. The Standing Committee chose, for its second hearing on the appointment, to hear from Dr. Jean Rouleau, Dean of Medicine at the Université de Montréal, a CIHR GC member whose own research has been funded by Pfizer and who has negotiated a Pfizer grant to his faculty. Neither he nor CIHR thought that these relationships created either the appearance or reality of conflict of interest. And herein lies the root of the problem: a notion of conflict of interest so stripped of its meaning that those who violate it are as oblivious to their compromised status as the emperor was unaware of his nakedness. In the end, the most disturbing revelation of *l'affaire Prigent* is the ethical obtuseness that pervades our political and scientific leadership.

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